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COPY MAILED

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OFFICE OF PETITIONS

In re Application of	:	
Robert R. Gray	:	
Application No. 10/068,575	:	DECISION ON PETITION
Filed: February 6, 2002	:	UNDER 37 C.F.R. §1.181
Title: TRASH RECEPTACLE WITH	:	
SUCTION MEANS FOR DRAWING A	:	
FLEXIBLE BAG LINER AGAINST ITS	:	
INTERIOR WALLS	:	

This is a decision on the petition filed October 8, 2006, pursuant to 37 C.F.R. §1.181, requesting that the holding of abandonment in the above-identified application be withdrawn.

The above-identified application became abandoned for failure to submit the issue fee and drawings in a timely manner in reply to the Notice of Allowance and Issue Fee Due, mailed April 27, 2006, which set a shortened statutory period for reply of three months. No extensions of time are permitted for transmitting formal drawings or issue fees¹. Accordingly, the above-identified application became abandoned on July 28, 2006. A Notice of Abandonment was mailed on August 30, 2006.

With the present petition, Petitioner's representative has asserted that the communication was not received. Petitioner's representative has met the requirements of Delgar v. Schuyler, 172 USPQ 513 (D.D.C. 1971), in that he has asserted that the Office communication was not received, that he has searched both the file jacket and the docket record, and he has included a copy of the latter. He has further explained that the lock on

¹ See MPEP §710.02(e).

his mailbox had been broken for a period of time, during which the mailman was not leaving his mail.

However, it is noted that the Notice of Allowance and Issue Fee Due was mailed to the address of record, which is "Suite 105, 2916 West T.C. Jester Boulevard, Houston TX 77018." This is the same address which appears on the transmittal sheet and the declaration, both of which were presented on filing. The address that appears on this petition however, is "2916 West T.C. Jester Boulevard, Suite 100, Houston TX 77018."

It appears that at some point subsequent to the filing of this application, the address of Petitioner's representative changed, and Office records do not appear to indicate that a Change of Address has ever been filed with the Office.

Petitioner's representative has not provided any indication as to if/when he moved. Therefore, it appears that the Office action was properly mailed by this Office to the correspondence address of record, and Petitioner's representative did not receive the communication because he was no longer located at Suite 105. Petitioner has asserted that the mailing was returned to the Office because of a broken mailbox, however it is equally possible that the mailing was returned because Petitioner is no longer located at the correspondence address of record. It stands to reason that the new occupant of Suite 105, upon receiving a letter that was not addressed to him/her, would return the mailing to the United States Postal Service, with an indication that the mailing should be returned to the sender.

Petitioner must clarify, on the record, why his return address differs from the address of record. If Petitioner's correspondence address has changed, he must indicate when this occurred, and why a change of correspondence address was not submitted to the Office.

Pursuant to the discussion above, the petition must be **DISMISSED.**

Any reply must be submitted within **TWO MONTHS** from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reply should include a cover letter entitled "Renewed Petition Under 37 C.F.R. 1.181(a)". This is not a final agency action within the meaning of 5 U.S.C 704.

Alternatively, Petitioner may also wish to consider filing a petition under 37 C.F.R. §1.137(a) and/or (b). No assurance can be made that any remedy will be forthcoming.


The renewed petition should indicate in a prominent manner that the attorney handling this matter is Paul Shanowski, and may be submitted by mail², hand-delivery³, or facsimile⁴.

If responding by mail, Petitioner is advised not to place the undersigned's name on the envelope. Only the information that appears in the footnote should be included - adding anything else to the address will delay the delivery of the response to the undersigned.

As indicated above, it has been noted that the address listed on the petition differs from the address of record. If Petitioner desires to receive future correspondence pertaining to this application, the change of correspondence address must be submitted. A courtesy copy of this decision will be mailed to Petitioner. However, all future correspondence will be directed to the address of record until such time as appropriate instructions are received to the contrary. Petitioner will not receive future correspondence related to this application unless Change of Correspondence Address, Patent Form (PTO/SB/122) is submitted for the above-identified application. For Petitioner's convenience, a blank Change of Correspondence Address, Patent Form (PTO/SB/122), may be found at <http://www.uspto.gov/web/forms/sb0122.pdf>.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225⁵. All other inquiries concerning examination procedures or status of the application should be directed to the Technology Center.

cc: Kenneth A. Roddy
Suite 100
2916 West T.C. Jester Boulevard
Houston TX 77018


Paul Shanowski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

2 Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

3 Customer Window, Randolph Building, 401 Dulany Street, Alexandria, VA, 22314.

4 (571) 273-8300- please note this is a central facsimile number.

5 Petitioner's representative will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. §1.2. As such, Petitioner's representative is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner's representative.